THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION:

SOAH DOCKET NO.: 453-05-3199.M5

MDR Tracking Number: M5-04-4091-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on July 30, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visits, electrical stimulation, ultrasound, therapeutic procedures, therapeutic exercises, neuromuscular re-education, massage, manual therapy technique, and mechanical traction were not found to be medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. As the office visits, electrical stimulation, ultrasound, therapeutic procedures, therapeutic exercises, neuromuscular re-education, massage, manual therapy technique, and mechanical traction were not found to be medically necessary, reimbursement for dates of service from 8/1/03 through 3/26/04 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 1st day of November 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

October 27, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-4091-01
TWCC #:
Injured Employee:
Requestor:
Respondent:
------ Case #:

------ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ------ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent

review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ------ for independent review in accordance with this Rule.

------ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ------ external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ------ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ------ for independent review. In addition, the ------ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a female who sustained a work related injury on ------. The patient reported that while at work as a bus driver she was involved in a motor vehicle accident injuring her cervical spine, mid back, low back and both knees. An MRI of the left knee performed on 2/10/03 revealed abnormal signal involving the posterior horn of the medial meniscus extending to the inferior articular surface. On 3/9/03 the patient reportedly underwent left knee arthroscopy. The diagnoses for this patient have included low back pain, cervicalgia, and left knee pain s/p arthroscopy. Further treatment for this patients condition has included cervical epidural steroid injections as well as physical therapy consisting of electrical stimulation, ultrasound, neuromuscular reeducation, massage, manual therapy technique, mechanical traction, and therapeutic activities and procedures

Requested Services

Office visit, 97032-electrical stimulation, 97035-ultrasound, 97110-therapeutic procedures, 97530-therapeutic activities, 97112-neuromuscular reeducation, 97124-massage, 97140-manual therapy technique, and 97012-mechanical traction from 8/1/03 through 3/26/04.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Letter of Medical Necessity 8/23/04.
2. MRI report 2/10/03
3. Daily SOAP notes 8/1/03 – 3/26/04
4. Operative Notes 5/9/03, 9/4/03, 10/16/03

Documents Submitted by Respondent:

1. No documents submitted

Decision

The Carrier's denial of authorization for the requested services is upheld.

Rationale/Basis for Decision

The ------ chiropractor reviewer noted that this case concerns a female who sustained a work related injury on ------. The ------ chiropractor reviewer also noted that the patient had been treated with physical therapy consisting of electrical stimulation, ultrasound, neuromuscular reeducation, massage, manual therapy technique, mechanical traction, and therapeutic activities and procedures as well as injections. The ------ chiropractor reviewer explained that physical medicine is an accepted part of a rehabilitation program following an injury. The ------ chiropractor reviewer explained that an expectation of recovery or improvement within a reasonable and generally predictable time period and frequency, type and duration of services are required to establish medical necessity. The ------ chiropractor reviewer indicated that general expectations include an increase in the active regimen of care and a decrease in the passive regimen of care and decrease in frequency of care, home care programs initiated in the beginning of care and include ongoing assessments of compliance. The ------ chiropractor consultant also indicated that patients should be assessed and re-assessed frequently to monitor progress, supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present, and evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment. The ------ chiropractor reviewer explained that after a maximum of two trial therapy series of manual procedures lasting up to two weeks each (four weeks total) without significant documented improvement, manual procedures may no longer be appropriate and alternative care should be considered (Haldeman, S; Chapman-Smith, D; Petersen, D Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen Publishers, Inc.). The ------ chiropractor reviewer indicated that therapeutic exercises may be performed in a clinic one-on-one, in a clinic group setting, at a gym or at home with the least costly of these options being a home program. The ------ chiropractor reviewer explained that a home exercise program is also preferable because the patient can perform the exercises on a daily basis and that current medical literature indicates that there is no strong evidence for the effectiveness of supervised training as compared to home exercises (Ostelo TW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1:28(3): 209-18).

The ------ chiropractor reviewer indicated that the medical records provided failed to demonstrate that manipulation was performed on any visit. The ------ chiropractor reviewer explained that the absence of the manipulation code modifier (-MP) also indicates that a proper regimen of chiropractic manipulative therapy was not performed. The ------ chiropractor reviewer also explained that according to AHCPR guidelines, spinal manipulation is recommended treatment for relief of symptoms and increase function and hasten recovery for adults suffering from acute low back pain (Bigos S., Bowyer O., Braen G., et al. Acute Low Back Problems in Adults. Clinical Practice Guideline No. 14. AHCPR Publication No. 95-0642. Rockville, MD: Agency for Health Care Policy and Research, Public Health Service, U.S. Department of Health and Human Services. December, 1994). The ------ chiropractor reviewer further explained that several studies have proven the effectiveness of spinal manipulation for patient's with cervical

spine symptoms and conditions (Hurwitz EL, Morgenstern H, Harber P, Kominski GF, Yu F, Adams AH. A randomized trial of chiropractic manipulation and mobilization for patient's with neck pain: clinical outcomes from the UCLA neck-pain study. Am J Public Health. 2002 Oct; 92(10): 1634-41).

The ------ chiropractor reviewer indicated that the medical necessity of continuing passive treatment, massage, ultrasound and traction, were not supported. The ------ chiropractor reviewer explained that it is beneficial to proceed to the rehabilitation phase if warranted as rapidly as possible to minimize dependency upon passive forms of treatment/care since studies have shown a clear relationship between prolonged restricted activity and the risk of failure in returning to pre-injury status. The ------ chiropractor reviewer noted that the TCA Guidelines also state that repeated use of acute care measures alone generally fosters chronicity, physician dependence and over-utilization and the repeated use of passive treatment/care tends to promote physician dependence and chronicity.

The ------ chiropractor reviewer explained that the documentation provided failed to demonstrate that the disputed services fulfilled statutory requirements since the patient obtained no relief, promotion of recovery was not accomplished and there was no enhancement of the employee's ability to return to or retain employment. The ------ chiropractor reviewer noted that the patient's limited lumbar and cervical ranges of motion remained the same and that the patient's O'Donahue's test and Compression test both remained positive. The ------ chiropractor reviewer also noted that the treating doctor reported the patient to be in obvious pain and exhibited rigidity of the same muscle groups, and that the patient's pain rating remained the same at 5-8/10 during 10/03. Therefore, the ------ chiropractor consultant concluded that the office visit, 97032-electrical stimulation, 97035-ultrasound, 97110-therapeutic procedures, 97530-therapeutic activities, 97112-neuromuscular reeducation, 97124-massage, 97140-manual therapy technique, and 97012-mechanical traction from 8/1/03 through 3/26/04 were not medically necessary to treat this patient's condition.

Sincerely,